

FILED

MAR 08 2006

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

NEBRASKA DEPARTMENT  
OF INSURANCE

STATE OF NEBRASKA	)	CAUSE NO.: A-1652
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	
	)	
vs.	)	CONSENT ORDER
	)	
BRADLEY J. McIVER,	)	
	)	
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine M. Neighbors, and Bradley J. McIver ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to *Neb.Rev.Stat.* §44-101.01 and §44-4047, *et seq.*
2. Respondent is licensed as a resident insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Bradley J. McIver on January 25, 2006. A copy of the petition was served upon the Respondent at his registered address of 4508 North 167<sup>th</sup> Street, Omaha, Nebraska 68164 by certified mail, return receipt requested.
2. Petitioner alleges Respondent engaged in conduct violating *Neb. Rev. Stat.* §44-4059(1)(b), (e), (g) and (h), and the Unfair Trade Practices Act as a result of the following conduct:

- a. On or about November 11, 2004, Respondent solicited an application for Bankers Life policy #7806447 from Joan Dalton, approximate age 77, ("Complainant") to replace a single premium deferred annuity issued to Complainant on August 27, 2004, by another insurer;
- b. On or about January 4, 2005, Respondent solicited an application for Bankers Life policy #7811957 from Complainant to replace a second single premium deferred annuity issued to Complainant on August 20, 2004, by another insurer;
- c. During the solicitation of each Bankers Life policy, Respondent represented the benefit of the replacement products as providing a guaranteed return, avoiding the stock market, and investing in a less complex product. Complainant's existing products did contain guarantees on returns and loss of principal. Respondent neither discussed nor disclosed the performance of Complainant's existing products before encouraging replacement although Respondent was aware of the terms of said products;
- d. Respondent recommended replacement of Complainant's products with those of Bankers Life even though Complainant's potential earnings of nine percent interest on the anniversary date would be voided and Complainant would be subject to maximum surrender charges for both policies. Complainant was charged \$640.00 in surrender charges on one policy and \$4,344.59 in surrender charges on the second policy;
- e. Respondent represented to Complainant that she would recoup the charges in 18 months. This statement is untrue. The interest on replacement policy #7806447 would not have offset surrender charges until the third policy year. The interest on replacement policy #7811957 would never have offset the surrender charge.
- f. On or about July 15, 2005, Complainant filed a complaint with the Nebraska Department of Insurance regarding Respondent's solicitation tactics. As a result, the Department contacted Respondent by letter on July 25, 2005. Following receipt of the Department's letter, Respondent contacted Complainant and requested she withdraw the complaint. Respondent prepared a letter to that effect for Complainant to sign during their meeting. The Department received said letter on or about August 2, 2005. On or about August 5, 2005, Respondent wrote to the Department and represented he "was informed" the Complainant dropped the complaint and, as a result, Respondent did not reply to the Department's request for information.

3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations contained in the Petition and restated in Paragraphs 2 above.

#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of *Neb.Rev.Stat.* §44-4059(1)(b), (e), (g), and (h), and the Unfair Trade Practices Act.

#### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Bradley J. McIver, that Respondent shall pay an administrative fine in the amount of \$500.00 due within ninety (90) days after the date the Director of Insurance signs this Consent Order and, in addition, Respondent shall complete an additional five (5) hours of continuing education within six (6) months after the date the Director of Insurance signs this Consent Order. Respondent shall contact the Nebraska Department of Insurance Licensing Administrator to agree on the appropriate course to fulfill this requirement. Any testing required as a result of this course will be taken by Respondent, in person, at the Nebraska Department of Insurance offices.

The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his or her signature below.

*Christine Mignola*  
Attorney for Petitioner

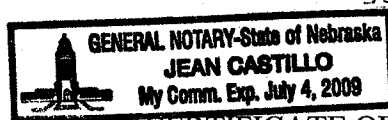
2/28/06  
Date

*Bradley J. McIver*  
Bradley J. McIver

3/6/06  
Date

State of Nebraska )  
County of Dodge ) ss.

On this 6 day of March, 2006, Bradley J. McIver personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



*Jean Castillo*  
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Bradley J. McIver, Cause No.: A-1652.

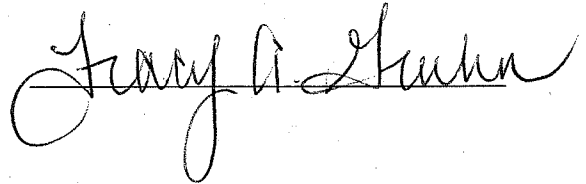
STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

*L. Tim Wagner*  
L. TIM WAGNER  
Director of Insurance

3/8/06  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was served upon  
Respondent by mailing a copy to his counsel, Bradley Nick, 340 E. Military Ave, Fremont,  
NE 68025 by certified mail, return receipt requested, on this 8<sup>th</sup> day of March,  
2006.

Handwritten signature of Tracy A. Shuhn in cursive script.